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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,896	08/02/2000	Timothy J. Mousley	PHB 34 , 390	7981

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BRIARCLIFF MANOR, NY 10510

EXAMINER

SHAH, CHIRAG G

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/630,896

Applicant(s)

MOULSLEY ET AL.

Examiner

Chirag G. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/21/07 have been fully considered but they are not persuasive.

Referring to claims 15, 20, 25, and 30, Applicant argues that the feature, "wherein said primary station is further operable to dynamically allocate a bit rate to only a signal random access channel, irrespective of the allocated bit rate, in response to a request for at least one random access channel resource from one of said plurality of secondary stations," is not shown or suggested by Cho. Applicant additionally argues that in stark contrast, Cho describes allocating a first channel, and sometimes an additional channel, depending upon the requested transmission rate.

Examiner respectfully disagrees and redirects Applicant to Cho reference, specifically page 5, lines 5-20 and page 15, lines 1-13. Cho clearly states that the mobile station selects an available channel code based on information from the received broadcast channel frame, generates a channel assignment request message, and transmits the channel assignment request message on a random access channel. Upon the reception of the channel assignment request message on the random access channel, the base station (primary station) assigns a channel, dynamically sets a transmission rate, and transmits the information on a forward access channel. Thus, the primary station dynamically allocates/sets a bit rate to a (single) channel, irrespective of the allocated bit rate in response to a request by a mobile station (secondary station).

With respect to Applicant's argument that in stark contrast, Cho describes allocating a first channel, and sometimes an additional channel, depending upon the requested transmission

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rate. Examiner respectfully disagrees because of several reasons. Primarily, the example of assigning additional channel, via the AR field refers to a different concept. Cho merely suggests that the mobile station can additionally support an intermittent data service by transmitting user data in a random access procedure. In a random access procedure, the mobile station requests for bandwidth without monitoring status information about the available channel. Thus, differing from the present invention as claimed, where the primary/base station transmits a random access channel status message, and subsequent to receiving the status message, the plurality of secondary stations generates a request. Cho indeed provides support for the claimed invention specifically in the abstract, page 5, lines 5-20 and page 15, lines 1-13. Cho clearly states that the mobile station selects an available channel code based on information from the received broadcast channel frame, generates a channel assignment request message, and transmits the channel assignment request message on a random access channel. Upon the reception of the channel assignment request message on the random access channel, the base station (primary station) assigns a channel, dynamically sets a transmission rate, and transmits the information on a forward access channel. Thus, the primary station dynamically allocates/sets a bit rate to a (single) channel, irrespective of the allocated bit rate in response to a request by a mobile station (secondary station).

Based the logical explanation of the claim feature being addressed by Cho, the respective claims respectfully remain unpatentable over Cho. Hence, for at least the same reasons given for claims 15, 20, 25, and 30, dependent claims respectfully do not overcome the cited references.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 15, 18-20, 23-25, 28-30, and 33-34 rejected under 35 U.S.C. 102(a) as being anticipated by Cho et al. (WO 0013426).

Referring to claims 15, 20, 25 and 30, Cho et al discloses in the abstract, figure 12 and claims 1-6 of a radio communication system, comprising a primary station (base station) operable (having means) to transmit a random access channel status message (BCCH) indicating an availability of random access channel resources (Base Station generates a broadcast channel frame at predetermined intervals, which includes status information indicating whether channel codes which are changing in real time are occupied or not as disclosed in the abstract and claim

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1); a plurality of secondary stations (mobile stations) operable (means for receiving) to receive the random access channel status message (a mobile stations selects an available channel code based on information from the received broadcast frame as disclosed in the abstract and claims 1-3), wherein each secondary station (at least one secondary) is further operable (means for requesting) to **determine which a random access resource to request** based on the random access channel status message (Cho et al further discloses in the abstract and claims 1-3 that upon selecting an available channel code based the received broadcast channel frame, the mobile station generates a channel assignment request message and transmits the channel assignment request message on a random access channel); and wherein the primary station (Base Station) is further operable (having means) to dynamically allocate bit rates (set a transmission rate) to at least one random access channel in response to a request (request by a mobile station) for at least one random access channel resource from one of the plurality of secondary (mobile) stations (Cho et al discloses in the abstract, page 5, lines 5-15, page 10, lines 5-24 and page 15, lines 1-13 along with figures 6 and 12, Cho clearly states that the mobile station selects an available channel code based on information from the received broadcast channel frame, generates a channel assignment request message, and transmits the channel assignment request message on a random access channel. Upon the reception of the channel assignment request message on the random access channel, the base station (primary station) assigns a channel, dynamically sets a transmission rate, and transmits the information on a forward access channel. Thus, the primary station dynamically allocates/sets a bit rate to only a (single) channel, irrespective of the allocated bit rate in response to a request by a mobile station (secondary station) as claims.

Referring to claims, 18, 19, 23, 24, 28, 29, 33 and 34, Cho et al discloses in the abstract, figure 5, 8 and 9 of wherein the random access channel status message is transmitted by the primary station (base station generates a broadcast channel frame, which includes status information indicating whether channel codes which are changing in real time are occupied or not and further more as disclosed in figure 8, the information sent on a BCCH by the base station includes a system parameter, PID, and status information) as a part of a paging indicator channel and an acquisition indicator channel (the frame data of BCCH includes the PID of the mobile station, which implies that the mobile station is paged from the network, the mobile station attempts a channel access and when the mobile station requests the channel assignment for paging, the mobile station NR and AR fields indicating a required assigned band and an additional assigned band respectively are both set to 0 because the mobile station does not know a band for processing traffic, thus indicating that the BCCH is transmitted as a part of paging and a band (rate) acquisition for processing traffic as disclosed in page 11, lines 3-21) as claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16, 17, 21, 22, 26, 27, 31, and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Aftelak et al. (WO 00/07401).

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Referring to claims 16, 17, 21, 22, 26, 27, 31, and 32, Cho discloses in the abstract, figures 8, 12, and claims 1-6 of a method characterized by the random access channel status message. Cho fails to disclose of sending a random channel status message indicating which data rates with respect to channel codes and highest data rates available on the random access channel. Aftelak teaches of a communications system wherein base station transmits status information to subscriber units (mobile station). Aftelak discloses on page 8 and 9 of capabilities of the network, where it provides subscriber units where a first channel or cell can support high data rate or low data rate transmission. In addition the status information also provides data rates of multiple capabilities. Thus, indicating the highest data rate available on the random access channel as claim 12. Therefore, it would have been obvious to modify the teachings of Cho to include the teachings of Aftelak in order to provide better user service and reduce channel resource fluctuations in order to efficiently request the rate needed for transmission.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G. Shah whose telephone number is 571-272-3144. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patel Jay can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

cgs

August 3, 2007



Chirag G. Shah
Primary Examiner, 2616

CHIRAG G. SHAH
PRIMARY PATENT EXAMINER